

Remarks

Claim rejections 35 USC § 103

The Office Action acknowledges that Beyda fails to disclose the feature of "providing at said output of said telephony device a dynamic indication of the network performance based on said calculation during said telecommunications session."

The Office Action argues that "Weaver teaches a method of simultaneously transmission of calls and analysis of quality of the calls to determine the quality of service for the call and to allow the call originator to access the call data." Reference is made in this regard to "col. 1, lines 48-51, 56-59, col. 2, lines 44-49, col. 18-20". Applicants wish to point out that Weaver stops at col. 12, and thus are unable to determine what is intended by the reference to col. 18-20, or whether the Examiner wished to rely on any passages other than columns 1 and 2.

It is noted that the Office Action does not argue that Weaver specifically teaches the feature missing from Beyda, namely providing at the output of a telephony device a dynamic indication of the network performance based on said calculation during said telecommunications session. Furthermore, it is noted that Weaver does not in fact teach providing such an indication at the output of a telephony terminal involved in a telecommunications session.

Accordingly, it is submitted that the suggested combination fails to teach each and every limitation of the claimed invention. A suggestion of "allowing the call originator to access the call data" is not the same as "providing at said output of said telephony device [involved in a telecommunications session] a dynamic indication of the network performance based on said calculation during said telecommunications session". Accordingly, the claimed invention cannot result from the suggested combination.

The above argument is made without prejudice to a further important point, namely that Weaver and Beyda are incompatible and their teachings cannot be combined, nor would the skilled person consider doing so. Beyda is concerned with monitoring delay calculations and end-to-end echo calculations in packet-based networks relying on the Internet protocol. Weaver operates in an entirely different type of network, namely a cellular network employing radio communications. No consideration has been given to how one would combine the two teachings in any practical sense, nor, it is submitted, could one do so.

In view of the amendments and arguments made herein, the applicants respectfully request the examiner withdraw the rejections, and allow the application.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", is written over a horizontal line.

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